

EXHIBIT 4

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE: DA VINCI SURGICAL ROBOT
ANTITRUST LITIGATION

Lead Case No.: 3:21-cv-03825-VC

THIS DOCUMENT RELATES TO:
ALL CASES

SURGICAL INSTRUMENT SERVICE
COMPANY, INC.,

Plaintiff,

vs. Case No.: 3:21-cv-03496-VC

INTUITIVE SURGICAL, INC.,

Defendant.

REMOTE VIDEOTAPED DEPOSITION OF
JOHN FRANCIS, M.D.

Pages 1 through 70

Friday, October 14, 2022
3:03 p.m. - 4:26 p.m.

Stenographically Reported By:
Denise Sankary, RPR, RMR, CRR

1 Q. What is robotic-assisted surgery?

2 A. It's basically a laparoscopic surgery with
3 the interface between your hands and laparoscopic
4 instruments which is used by a, quote, "robot."
5 It's basically a facilitator of those instruments.
6 It does not do anything in and of itself. It's a
7 directed instrument by the surgeon.

8 Q. Do you perform robotic-assisted surgeries
9 at Franciscan?

10 A. Yes.

11 Q. And what robotic-assisted surgical systems
12 do you use at Franciscan?

13 A. I'm sorry. Repeat the question.

14 Q. What are the systems or what -- what
15 devices do you use? So do you use the da Vinci
16 system or other systems when you perform
17 robotic-assisted surgeries at Franciscan?

18 A. That's correct. Using Intuitive da Vinci
19 Xi is the system we use at Franciscan.

20 Q. When did you start performing
21 robotic-assisted surgeries at Franciscan?

22 A. I think I received my training in 2012,
23 and really around 2015 is where I started doing a
24 lot more surgeries at Franciscan. It was
25 intermittently between 2012 and '15, and I can't

1 remember exactly when I started performing
2 operations on patients, but somewhere in that range.

3 Q. Approximately how many procedures have you
4 performed using the da Vinci?

5 A. It's going to be getting close to a
6 thousand now.

7 Q. When you first began using the da Vinci
8 system, were you skeptical about the system, or what
9 were you -- what was your perspective on it?

10 A. Yes. I was trained in open surgeries and
11 laparoscopy, and I did not initially see any value
12 to adding an interface like robotics. Once I
13 started using it and realized that there was dual
14 vision that you could use versus a single eye, the
15 three-dimensional aspects was quite a bit -- I would
16 say it got easier to assess tissue and perform
17 certain procedures.

18 In addition to that, I found that less
19 trauma to the patients occurred because you were
20 touching fewer amounts of tissue, and as a result,
21 the patients recovered quicker with less pain. And
22 initially, I was skeptical of that, but after
23 performing several different types of procedures,
24 realized that that actually was true for a majority,
25 if not all of the patients.

1 Q. And when you say that there was less
2 trauma to the patients when using the da Vinci
3 system, are you comparing it to laparoscopy, open,
4 or both?

5 A. Both.

6 Q. Do you perform hernia repairs using the --
7 excuse me. Let me rephrase.

8 Do you perform hernia repairs at
9 Franciscan?

10 A. Yes.

11 Q. And do you perform hernia repairs using
12 the da Vinci system?

13 A. Yes.

14 Q. Have you performed hernia repairs using
15 laparoscopic -- laparoscopic techniques?

16 A. Yes.

17 Q. Have you performed hernia repairs using
18 open techniques?

19 A. Yes.

20 Q. Are there -- excuse me.

21 You mentioned that you're -- you're
22 currently using the da Vinci Xi system; is that
23 correct?

24 A. That's correct.

25 Q. Have you used in the da Vinci systems in

1 the proficiency of the surgeon.

2 MR. CHAPUT: Dr. Francis, I don't have any
3 more questions at this point. I appreciate
4 your time. Thank you so much.

5 Mr. Bateman may have some questions, and I
6 may have a couple follow-ups after that if he
7 does ask anything.

8 MR. BATEMAN: Yes. Can we take a quick
9 break, maybe five minutes?

10 THE WITNESS: That's fine with me.

11 MR. BATEMAN: Okay. Thank you.

12 THE VIDEOGRAPHER: Going off the record at
13 3:39.

14 (Recess taken.)

15 THE VIDEOGRAPHER: Going back on the
16 record at 3:48.

17 CROSS EXAMINATION

18 BY MR. BATEMAN:

19 Q. Dr. Francis, is it fair to say that you're
20 an advocate of robotic surgery using the da Vinci?

21 A. Yes.

22 Q. Is it fair to say that you have, on
23 occasion, recommended that Franciscan increase its
24 investment in da Vinci technology?

25 A. Yes.

1 Q. Is robotic surgery with the da Vinci
2 important to your practice as a surgeon?

3 MR. CHAPUT: Object to the form.

4 A. Yes.

5 BY MR. BATEMAN:

6 Q. If Franciscan stopped offering da Vinci
7 surgeries altogether tomorrow, would you consider
8 doing da Vinci surgeries elsewhere that you are
9 currently doing at Franciscan?

10 MR. CHAPUT: Object to the form.

11 A. Yes.

12 BY MR. BATEMAN:

13 Q. Dr. Francis, are you being paid for your
14 time here today at this deposition?

15 A. No.

16 Q. Have you ever been paid by Intuitive?

17 A. Yes.

18 Q. For what have you been paid by Intuitive?

19 A. I've been paid in terms of remuneration
20 for giving lectures regarding the use of robotics,
21 I've been paid as a proctor to proctor other
22 operations as they learned and trained on robotics
23 and/or evaluated for the proficiency on the use of
24 the robotic system with regards to safety, and I've
25 been paid with regard to observation where

1 physicians and surgeons have come to the OR to
2 observe operations and to learn techniques.

3 Q. I see. Okay.

4 So starting with the -- the lectures, how
5 many lectures have you done for Intuitive,
6 approximately?

7 A. I -- I would say probably three or four.
8 Maybe more.

9 Q. And what were you paid by Intuitive for
10 those lectures?

11 A. I can't recall.

12 Q. Do you recall whether you were paid an
13 hourly rate or whether it was payment for a given
14 lecture?

15 A. Payment for a given lecture, if I recall
16 correctly. Usually, it's two hours of your time,
17 and so they kind of factor that in plus prep time.
18 So I assume it's based on an hourly, I just can't
19 recall. I do remember there being a certain number
20 of hours that they were going to cover for your
21 preparation, and then for your lecture, and then if
22 you traveled anywhere, they would cover the travel
23 costs incurred out of pocket for that.

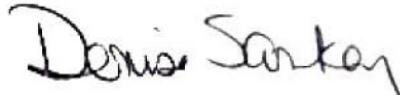
24 Q. Were you paid more than a hundred dollars
25 per lecture?

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3 CERTIFICATE OF OATH
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STATE OF FLORIDA
COUNTY OF PINELLAS

I, the undersigned authority, certify
that JOHN FRANCIS, M.D. appeared remotely before
me and was duly sworn on the 14th day of October,
2022.

Signed this 1st day of November, 2022.



DENISE SANKARY, RPR, RMR, CRR
Notary Public, State of Florida
My Commission No. GG 944837
Expires: 1/27/24

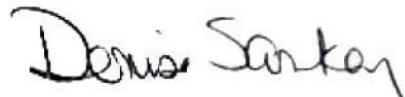
1 CERTIFICATE OF REPORTER
2

3 STATE OF FLORIDA
4

5 I, DENISE SANKARY, Registered Merit
6 Reporter, do hereby certify that I was authorized
7 to and did stenographically report the foregoing
8 Remote Videotaped of JOHN FRANCIS, M.D.; pages 1
9 through 66; that a review of the transcript was
10 requested; and that the transcript is a true
11 record of my stenographic notes.

12 I FURTHER CERTIFY that I am not a
13 relative, employee, attorney, or counsel of any
14 of the parties, nor am I a relative or employee
15 of any of the parties' attorneys or counsel
16 connected with the action, nor am I financially
17 interested in the action.

18 Dated this 1st day of November, 2022.
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22 DENISE SANKARY, RPR, RMR, CRR
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